

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

RANDALL J. HUEBNER, DAVID G. JENSEN,
and HERBERT RESPESS

Date: May 29, 2008

Serial No. : 10/625,503

Docket No. ACM 349

Filed : July 22, 2003

Group Art Unit 3733

For : BONE FUSION SYSTEM

Examiner Michael J. Araj

Mail Stop RCE
Commissioner for Patents
P. O. Box 1450
Alexandria, Virginia 22313-1450

S i r:

**COMMUNICATION ACCOMPANYING
REQUEST FOR CONTINUED EXAMINATION AND
CONDITIONAL PETITION FOR EXTENSION OF TIME**

Applicants received a final Office action dated November 29, 2007, on the above-identified patent application.

In the Office action, the Examiner allowed three claims, objected to two claims, and rejected the remaining claims.

Applicants filed a "Response After Final Office Action" on January 29, 2008, to put the application into condition for allowance based on the allowed and objected to claims from the Office action, without conceding the appropriateness of the rejections.

Applicants requested that the Response After Final be accorded expedited status under 37 C.F.R. §1.116, because the Response was submitted within two months of the mailing date of the Office action. However, to date, the Office has issued neither a

Notice of Allowance nor an Advisory Action. (See attached printout from private PAIR showing the transaction history of the application through the close of business today.)

Applicants believe that the Office should have responded to their Response After Final by issuing a Notice of Allowance (or Advisory Action), based on their understanding of 37 C.F.R. §1.116. Nevertheless, to avoid abandonment of the application, applicants are filing herewith a Request for Continued Examination (RCE) of the application. The RCE requests entry (and prompt consideration) of the Response After Final that was filed on January 29, 2008.

The Office action stated that “[i]n the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action.” Therefore, because applicants filed their Response After Final within two months of the mailing date of the final Office action, and because no Advisory Action or Notice of Allowance has issued (according to the official Transaction History for the application), applicants believe that they still are within the shortened statutory period and that no extension fee is required. Nevertheless, to avoid the unintentional abandonment of the application, applicants hereby petition the Office for any extension that may be necessary to enter this communication, and they hereby authorize the Office to deduct any fees that might be required for such a petition or any other deficiency relating to the application from Deposit Account 11-1540.

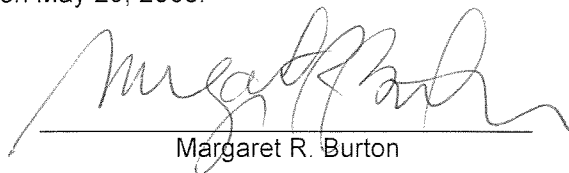
Applicants believe that this application is in condition for immediate allowance, in view of their present and previous actions and amendments. Accordingly, applicants respectfully request that the Examiner issue a Notice of Allowance covering all of the pending claims. If there are any questions regarding this communication, or if a telephone interview would in any way advance prosecution of the application, the Examiner is encouraged to contact the undersigned attorney of record, James R. Abney, or his associate Stanley M. Hollenberg (Reg. No. 47,658), both at the telephone number listed below.

Respectfully submitted,

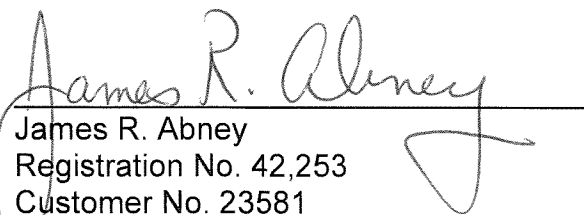
KOLISCH HARTWELL, P.C.

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that this correspondence is being submitted via the EFS-Web Electronic Filing System to the U.S. Patent and Trademark Office on May 29, 2008.



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